

MEETING MINUTES CITY OF MILPITAS

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, October 7, 2008
Time: 6:00 PM
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

ROLL CALL

Mayor Esteves called the meeting to order at 6:00 PM.

PRESENT: Mayor Esteves, Councilmembers Giordano, Gomez and Polanski

ABSENT: Vice Mayor Livengood. Councilmember Giordano was absent at 6:00 PM, and she arrived for the Closed Session at 6:20 PM.

CLOSED SESSION

Mayor Esteves publicly stated the Council would convene to Closed Session for discussion of two issues: (1) labor negotiations with employee group Milpitas Professional and Technical Group (ProTech), and (2) performance review of the City Attorney.

City Council convened in Open Session at 7:00 PM.

CLOSED SESSION ANNOUNCEMENT

None

PLEDGE

Boy Scouts Troop No. 92 Color Guard led the Pledge of Allegiance.

INVOCATION

Mayor Esteves asked Mr. Lou Horyza, Knights of Columbus leader, to provide an invocation prayer. He prayed for people with intellectual disabilities.

MINUTES

Motion: to approve the minutes of September 19, 2008 City Council meeting, as submitted

Motion/Second: Councilmember Polanski/Councilmember Giordano

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Livengood)

SCHEDULE OF MEETINGS

Motion: to approve the Council Calendar/Schedule of Meetings for October

Motion/Second: Councilmember Polanski/Councilmember Gomez

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Livengood)

PRESENTATION

Mayor Esteves proclaimed the following:

- *Help People with Intellectual Disabilities Days*, October 17-18, 2008, Knights of Columbus – Milpitas Council #5796, and St. Elizabeth Council #8747
- *Fire Prevention Week*, October 5-11, 2008 accepted by Fire Marshal Albert Zamora
- *History Month* for the month of October 2008, accepted by Barbara Gomes, President of the Milpitas Historical Society

Mayor Esteves presented a Certificate of Appointment to Dilpreet Khalsa for his recent appointment to the Milpitas Youth Advisory Commission.

PUBLIC FORUM

Craig Donnelly, 1278 Traugher St, had a letter for the City Council on a topic due for discussion later. Mayor Esteves requested him to return to the podium at the time the agenda item was heard.

Morgan Maynard, a young Milpitas resident, invited the City Council to the first Halloween “Spooktakular” event on Saturday, October 25 from 12:00 noon to 4:00 PM at the Milpitas Sports Center, featuring a costume parade, puppet show, activities, food, pumpkins, magic, and Halloween movies. She distributed special treats to the Mayor and Councilmembers.

Carmen Montano, resident, discussed the policy for rental of the Milpitas community facilities. She had spoken to staff Bonnie Greiner and the City Manager about rental of rooms at the Community Center, and pointed out a mandate to foster rich cultural diversity within the City. The Latino Association, African American groups, and Sikh Foundation also had difficulty reserving the Community Center large auditorium, despite the established procedure to reserve the room one year in advance. Ms. Montano asked the Council to review the current policy, and requested for one day to make an exception to the policy for diverse organizations, including the Latino group.

A Sikh man commented similarly to Ms. Montano regarding difficulty in securing for rent the Senior Center or Community Center for certain days to celebrate his culture.

Councilmember Giordano asked the speakers whether they knew one year in advance when they needed the facility. She wondered about a future policy v. the current one. Ms. Giordano wanted the policy to be reviewed, so Mayor Esteves asked staff to return to the City Council on this issue.

ANNOUNCEMENTS

Councilmember Polanski announced, on behalf of the Emergency Preparedness Commission, that it was working with Information Services staff on a website to link from the City’s website for preparedness and to provide helpful information for various types of emergencies. The Community Advisory Commission was coordinating with the EPC to host a joint Town Hall meeting in 2009 for community emergency preparedness.

Councilmember Giordano announced that the Milpitas Library would be moving soon to the new facility on N. Main Street, and thus planned to close on Monday, November 3, for the move.

Mayor Esteves asked the City Clerk to announce the opportunity for Vote By Mail voters to drop off their voted ballots in a secure ballot box on the third floor of City Hall. He also encouraged all residents to be conscientious about conserving water at home.

ANNOUNCEMENT OF CONFLICT OF INTEREST

None

APPROVAL OF AGENDA

Motion: to approve the agenda, as submitted

Motion/Second: Councilmember Giordano/Councilmember Polanski

Motion carried by a vote of:

AYES:
NOES: 0
ABSENT: 1 (Livengood)

CONSENT CALENDAR

Motion: to approve the Consent Calendar (items noted with *asterisk), as amended

Councilmember Gomez asked for Item No. 8 to be removed from consent. Councilmember Giordano asked for that item to be moved up earlier, to be heard after the Public Hearing.

Motion/Second: Councilmember Polanski/Councilmember Gomez

Motion carried by a vote of:

AYES: 4
NOES: 0
ABSENT: 1 (Livengood)

*4. Commission Appointments	<p>Confirmed the following Commission appointments:</p> <p><u>Bicycle Pedestrian Advisory Commission:</u> Appointed Wei P. Sun as a regular member to a term that expires in August 2011. Appointed Cheng-Wei Pei as Alternate No. 1 to a term that expires in August 2010. Newly appointed Aaron Faupell as Alternate No. 2 to a term that expires in August 2009.</p> <p><u>Community Advisory Commission:</u> Newly appointed Bella Sangalang as Alternate No. 4 to a term that expires in Jan. 2010.</p> <p><u>Recycling and Source Reduction Advisory Commission:</u> Newly appointed Garrett Dye as Alternate No. 2 to a term that expires in October 2010.</p> <p><u>Youth Advisory Commission:</u> Newly appointed Celine Cacho as Alternate No. 3 to a term that expires in Sept. 2009.</p>
*6. Award of Child Care Assistance Fund Grants	<p>Approved funding from the Family Child Care Assistance Fund for grants to thirteen family child care providers, recommended by the PRCRC:</p> <p>\$500 Sherry Clanton, Yan Ding, Mora Giltug, YuYing Lai, Carol Lynn Reed, Evangeline Robillos, Samiha Samawi, Sabrina Sheikh \$444 Lisa Hodges \$389 Victoria Burns, Francisca Diaz, Donna Egusa, Fauzia Salim</p>
*7. Re-open Projects No. 4241 and No. 8083	Approved re-opening Capital Improvement Project No. 4241 Street Light and Signal Pole Painting 2008 and Project No. 8083 Public Works Yard Parking Lot Expansion.
* 9. Budget Appropriation for Project No. 4245	Approved a budget appropriation to Project No. 4245, Minor Traffic Improvements 2009, for a Grant from the Metropolitan Transportation Commission's (MTC) 2007-08 Transportation Development Act (TDA) – Article 3 Fund Program
*10. Budget Appropriation for Project No. 4248	<p>1. Closed Project No. 4237 and partially defund Project No. 4241 in the amount of \$9,000.</p> <p>2. Approved a budget appropriation for Project No. 4248, Traffic Management Enhancements 2009, in the amount of \$880,000 for Traffic Signal Management System Project, with \$775,000 to be paid by a TFCA grant and \$105,000 from the Street Fund.</p>
*11. Initial Acceptance of the 2008 Street Resurfacing	Adopted Resolution No. 7784 granting the Initial Acceptance of the 2008 Street Resurfacing Project, Project No. 4242, subject to a one year warranty period and authorized the reduction of the contractor's faithful performance bond to \$271,586.
*12. Initial Acceptance for Elm Trees, Project No. 3160	Adopted Resolution No. 7785 granting initial acceptance of the Elm Trees in O'Toole Elms Park at KB Home Terra Serena residential development, and authorized a reduction in penal sum of the subdivision improvement bond.
*13. Amendment No. 1 to Agreement with AppleOne	Approved Amendment No. 1 to the Agreement with AppleOne for an Employment Services Contract for the not-to-exceed amount of \$21,390 (for Planning Department).
*14. Bidder Pre-Qualification Package for Project No. 7101	Authorized the City Engineer to issue a bidder pre-qualification package for the Gibraltar Reservoir and Pump Station, Project No. 7101.
*15. Amendment No. 4 to the Agreement with Dodson Psomas for Projects No. 7101 and 7100	Authorized the City Manager to execute Amendment No. 4 to the Agreement with Dodson Psomas in the amount of \$462,158 for work on the Gibraltar Reservoir and Pump Station Project No. 7101 and the Water System Seismic Improvements, Project No. 7100, subject to approval as to form by the City Attorney.
*16. Contract with Managed Health Network Inc. for Employee Assistance Program	Authorized the City Manager to enter into a contract for an employee assistance program with Managed Health Network for the period of October 1, 2008 through December 31, 2009, not to exceed \$35,954.28, subject to approval by the City Attorney.

*17. Approve Payment to Mohawk Resources Ltd.

Approved the payment request to Mohawk Resources Ltd. for the Hunter alignment system for the not-to-exceed price of \$27,458.

PUBLIC HEARING

1. Resolution Approving SEIR for Midtown Specific Plan Transportation Element Update

Traffic Engineer Jaime Rodriguez introduced the project team, including city staff Janice Spuller and the consultant on the project. A resolution was requested for adoption in order to update the Midtown Specific Plan's Supplemental Environmental Impact Report. Mr. Rodriguez summarized the five proposed changes, regarding the Carlo St. interchange at Calaveras Blvd. Following public meetings and the public comment period, four comments were received from various entities, and staff had responded to Santa Clara County, Santa Clara Valley Transportation Authority, Pacific Gas & Electric and Caltrans.

Mayor Esteves opened the public hearing for comments and none were heard.

(1) Motion: move to close the public hearing

Motion/Second: Councilmember Gomez/Councilmember Polanski

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Livengood)

(2) Motion: to adopt Resolution No. 7783 certifying the Midtown Supplemental Environmental Impact Report for the Midtown Specific Plan Transportation Element Update

Motion/Second: Councilmember Gomez/Councilmember Polanski

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Livengood)

UNFINISHED BUSINESS

2. Report on ADA Compliance regarding City Sidewalks

City Engineer Greg Armendariz provided a summary of findings regarding compliance with the Americans with Disabilities Act, in Milpitas. He reported that 1,000 sidewalk ramps were identified in 1995 for needed improvements, and implementation has been ongoing ever since. Work included installation of ramps upon request from residents, in addition to staff-identified locations. Four funding sources were identified to pay for the ongoing work. In 2008, 35 ramps were installed via three scheduled resurfacing Capital Improvement Projects throughout the City.

Mayor Esteves asked how many of the 1,000 were completed. Mr. Armendariz replied that the City was 80% complete, with 200 to work on during the next three years via scheduled CIPs. Mayor specifically noted that the City cared about disabled residents.

The City Council gratefully accepted the City Engineer's report, and no vote was taken.

JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA 1. CALL TO ORDER

Mayor/Agency Chairman Esteves called to order the regular meeting of the Milpitas Redevelopment Agency, meeting jointly with the City Council, at 7:52 PM.

RA 2. ROLL CALL

PRESENT: Mayor/Chair Esteves, Agency/Councilmembers Giordano, Gomez and Polanski

ABSENT: Vice Mayor/Vice Chair Livengood

RA 3. MEETING MINUTES

Motion: to approve the minutes of September 16, 2008 as submitted

Motion/Second: Agency/Councilmember Polanski / Agency/Councilmember Giordano

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Livengood)

**RA 4. Agenda Approval and
Consent Calendar**

Motion: to approve the agenda and consent calendar items (*)

Motion/Second: Agency/Councilmember Polanski / Agency/Councilmember Gomez

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Livengood)

**RA 5. Public Hearing on the
2004 – 2010 Merged Area
Redevelopment Project
Implementation Plan Mid-Cycle
Update**

Economic Development Director Diana Whitecar explained the need for the Public Hearing to approve the 2005-2010 merged area redevelopment project implementation plan mid-cycle update. There were 25 projects approved in the plan area, with activities for 2005-2020 scheduled. The 20% set-aside for affordable housing has been successful in meeting housing goals for the City in the RDA area.

Ms. Whitecar identified significant fiscal and project changes, with impacts on the Redevelopment Agency.

Mayor Esteves asked staff several questions on housing funding, and how goals had been met, which staff further reviewed for the Agency/Council's benefit. Goals included 15% of housing stock built for low- and moderate-income residents, with 20% of the Redevelopment Agency funds set aside for that purpose, as required by law.

Staff reported that proper notification of this public hearing was provided in the local newspaper and posted in four locations within the RDA area.

Mayor Esteves opened the public hearing for comments, and none were heard.

Motion: move to close the public hearing

Motion/Second: Agency/Councilmember Gomez / Agency/Councilmember Polanski

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Livengood)

Motion: to approve the 2004-2010 Merged Area Redevelopment Project Implementation Plan Mid-Cycle Update

Motion/Second: Agency/Councilmember Gomez / Agency/Councilmember Giordano

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Livengood)

**RA 6. Update Report on New
Library and Streetscape**

City Engineer Greg Armendariz reported on the progress of the library and streetscape projects. Construction proceeded on Winsor, at the in/out area and cul-de-sac at the parking garage. Phase II of streetscape work was well underway and due to complete in the spring. The Library was 92% complete at this time, with only 51% of change order contingency needed.

3. Measure B Consideration

Mayor Esteves introduced his request to consider the City Council taking a position on Measure B, regarding at 1/8 cent tax for funding BART to Santa Clara County.

Councilmember Giordano stated she was opposed to the new tax as she was opposed to any and all new taxes while she served on the Council. She noted that the Measure did not receive even full support of all Santa Clara VTA (measure sponsor) Board members.

Councilmember Polanski stated this was one of the measures she did not want the City Council to take a position on, particularly as she was uncertain on this date as to how she personally would vote.

Councilmember Gomez announced he publicly supported Measure B, and believed it to be a critical effort toward BART funding for this region of the South Bay.

Motion: move to support Measure B on the November 4, 2008 ballot

Motion/Second: Councilmember Gomez/Mayor Esteves

Motion failed by a vote of:

AYES:	2	
NOES:	2	(Giordano, Polanski)
ABSENT:	1	(Livengood)

5. Recommendation from Commission Regarding Water Served in Restaurants

Councilmember Gomez brought this issue forward per a request from the Recycling and Source Reduction Advisory Commission. Councilmember Giordano sought to learn what other local cities were doing on this topic. Mayor Esteves commented to find out what restaurants were thinking about water service in their establishments.

Councilmember Gomez reported that his understanding of the request was that it was related to an effort towards water conservation as a general community-wide goal.

Motion: to direct staff to report back to the City Council on the issue that RSRAC brought forward on the matter of water served in restaurants

Motion/Second: Councilmember Gomez/Councilmember Polanski

Motion carried by a vote of:

	AYES: 4
	NOES: 0
	ABSENT: 1 (Livengood)

NEW BUSINESS

Three items were approved on the consent calendar.

8. Rotary Club request for waiver of fees

Councilmember Gomez asked the City Manager about current policy the City had regarding waiving of fees. City Manager Williams responded the policy was for non-profit organizations only, upon approval by the City Council.

Mayor Esteves stated it should not be a blanket policy, and that it should be reviewed and be more specific. For example, perhaps it should be stated that the non-profit must be a local one, to be considered for fee waiver.

In response to a question, Mr. Williams reported that approximately \$2,000 in costs was waived in the last fiscal year.

Councilmember Polanski moved approval of the Rotary Club's request and asked staff to review policy and come back to Council in the future.

Councilmember Gomez sought information about any need for Police services at the pumpkin patch or other events. The City Manager responded that additional security was required at special events and that the City's Police Department did not provide such staffing.

Motion: Authorize the request by the Milpitas Rotary Club to waive up to \$639 in fees associated with permitting the Club's annual pumpkin patch. Also included in the motion was direction to staff to review the policy allowing for fee waivers upon Council approval and for that policy to then be reviewed by the Council's Finance Subcommittee.

Motion/Second: Councilmember Polanski/Councilmember Giordano

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Livengood)

RESOLUTIONS

Two items were approved on the consent calendar.

BIDS & CONTRACTS

Four items were approved on the consent calendar.

CLAIM & DEMAND

One item was approved on the consent calendar.

ADJOURNMENT

Mayor Esteves adjourned the Council meeting at 8:41 PM.

The foregoing minutes were approved by the Milpitas City Council as submitted on October 21, 2008.

Mary Lavelle
City Clerk